

Served: October 1, 2004



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the **28th** day of September, 2004

In the matter of the revocation of the
commuter air carrier authority issued to

SAMOA AVIATION, INC.

Docket OST- 2003-14871

under Section 41110(e) of Title 49 of the
United States Code

ORDER REVOKING COMMUTER AUTHORITY

Summary

By this order, we revoke the commuter air carrier authority issued to Samoa Aviation, Inc. (Samoa) for reason of dormancy.

Background

By Order 88-12-28, issued December 13, 1988, the Department found Samoa, based in Pago Pago, American Samoa, fit to provide scheduled passenger services as a commuter air carrier. That authority became effective on December 28, 1988. The carrier provided scheduled passenger services in American Samoa and the Pacific region for many years.

In May 2001, the Department began an informal continuing fitness review of Samoa because of concerns raised by the Federal Aviation Administration (FAA) that the carrier appeared to be struggling financially and that such difficulties could have a negative impact on Samoa's ability to maintain its air carrier operations. For over a year and a half, the Department attempted to obtain sufficient information from Samoa demonstrating its fitness.¹ When our efforts were not successful and our concerns regarding the carrier's fitness continued, on April 4, 2003, the Department issued Order 2003-4-6, tentatively concluding that Samoa had not filed information demonstrating its fitness and that its commuter air carrier authority should be revoked. Samoa

¹ During this time, the Department made a number of written requests for information. While Samoa, which underwent an ownership change during this time, provided some information in response to our requests, the information submitted was never sufficient to establish that the carrier was fit to continue holding its authority.

filed an answer opposing our proposed revocation. However, prior to the Department's issuing its final decision in this proceeding, in September 2003, Samoa advised the FAA that it was ceasing its scheduled passenger (that is, commuter) services indefinitely.²

Section 204.7 of our rules (14 CFR 204.7) provides that, once a carrier ceases all operations for which it was found fit, its authority to conduct such operations is automatically suspended and the carrier may neither resume nor advertise such operations until its fitness has been re-established by the Department. Section 204.7 further provides that, if the carrier does not have its fitness redetermined and resume operations within one year of its cessation (in Samoa's case, by September 8, 2004), its authority is subject to revocation for dormancy.

By letter dated September 17, 2003, we advised Samoa that, as a result of its suspension of its scheduled passenger services, its commuter authority was suspended under section 204.7 and that it would need to have its fitness redetermined prior to resuming such services.³ By letter dated June 10, 2004, we reminded Samoa of the impending revocation-for-dormancy provisions of section 204.7. We have received no application from Samoa stating that the carrier intends to resume operations, nor do we have any other information that would lead us to conclude that it intends to do so in the near future.⁴

Under the circumstances, by this order, we will revoke the commuter authority issued to Samoa by Order 88-12-28.⁵ This action is taken without prejudice to Samoa's filing a new application for commuter authority at a later date should it choose to do so.

² At the time, Samoa had only one operable aircraft and that aircraft had limited flight hours left before it would need to undergo major FAA-required maintenance. It is our understanding that Samoa decided to cease its scheduled services in order to extend the amount of time its aircraft would be available to provide other, more critical, services to travelers in American Samoa.

³ On September 22, 2003, Samoa requested that the Department reconsider its determination that the carrier had ceased commuter operations. In doing so, Samoa stated that it hadn't ceased scheduled passenger services; rather, it was just reducing such flights until such time as it was able to obtain other aircraft to provide such services while Samoa's own aircraft was undergoing maintenance. On October 2, 2003, the Department advised Samoa that, given the company's notice to the FAA, coupled with the fact that it did not operate any flights--scheduled or charter--for more than a week after ceasing, we did not find a basis for reversing our earlier finding that the carrier had ceased its scheduled passenger operations for purposes of section 204.7.

⁴ Subsequent to the carrier's cessation of operations, Samoa reincorporated in the State of California and, in December 2003, filed for Chapter 11 bankruptcy protection. Samoa's authority was initially issued to Samoa Aviation, Inc., an American Samoa corporation. On March 2, 2004, we reminded Samoa that, pursuant to 49 U.S.C. 41105, neither Samoa, nor any other company, could operate under Samoa's authority unless it had first been transferred from the American Samoa corporation to the other company by the Department. No transfer request has been filed.

⁵ In addition to providing scheduled passenger operations as a commuter, Samoa also was registered with the Department under Part 298 to conduct other air taxi operations authorized by that Part. As we advised the carrier in our September 17 and October 2, 2003, letters, notwithstanding the suspension of its commuter authority, the company could continue to provide other, non-commuter level operations under Part 298 so long as it met the insurance and other requirements applicable to such services. Subsequent to Samoa's cessation of scheduled passenger services, we received notice from its insurance company that the liability insurance coverage for all of the company's operations was cancelled as of December 16,

(--footnote continued on next page--)

ACCORDINGLY, Pursuant to authority assigned by the Department in its regulations, 14 CFR 385.12:

1. We revoke for reason of dormancy the commuter air carrier authority issued to Samoa Aviation, Inc., by Order 88-12-28.
2. We cancel the Part 298 registration currently on file for Samoa Aviation, Inc.
3. We will serve a copy of this order on the persons listed in Attachment A.

Persons entitled to petition the Department for review of this order under the Department's Regulations, 14 CFR 385.30, may file their petitions within 10 days of this service date of this order.

This order is effective immediately and the filing of a petition for review shall not alter its effectiveness.

By:

RANDALL D. BENNETT
Director
Office of Aviation Analysis

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<http://dms.dot.gov>*

2003. By letter dated January 22, 2004, we reminded Samoa of the need to provide the Department with evidence that it had obtained replacement insurance coverage prior to conducting any future air taxi operations under Part 298. To date, we have received no notification that Samoa has obtained such insurance coverage. Under the circumstances, in addition to revoking the carrier's commuter authority, we will cancel entirely the Part 298 registration currently on file for Samoa. Should Samoa want to conduct any flight operations pursuant to that rule in the future, it can file a new registration with the Department at that time.

SERVICE LIST FOR SAMOA AVIATION, INC.

Mr. Andre Lavigne
Chief Operating Officer
Samoa Aviation, Inc.
424 Onda Street
Newport Beach, CA 92660

Mr. Donald Bright
Acting Director
Office of Airline Information, K-25
Department of Transportation
400 7th Street, SW
Washington, DC 20590

Mr. T. Edward Malpass
Law Offices of
T. Edward Malpass
3333 Michelson Drive, Suite 825
Irvine, CA 92612-1694

Mr. Monroe P. Balton
Regional Counsel, AWP-7
Federal Aviation Administration
Western-Pacific Region – HQ
P.O. Box 92007
Los Angeles, CA 90009-2007

Mr. Peter J. Lynch
Asst. Chief Counsel for Enforcement,
AGC-300
Federal Aviation Administration
800 Independence Ave., SW
Washington, DC 20591

Mr. Larry Kephart
Manager, Flight Standards Div
AWP-200
Federal Aviation Administration
Western-Pacific Region – HQ
P.O. Box 92007
Los Angeles, CA 90009-2007

Ms. Lori Aquilino
CSET Assistant Manager
FAA SFO-IFO
831 Mitten Road, Suite 105
Burlingame, CA 94010

Federal Aviation Administration
Flight Standards District Office
135 Nakolo Place, Room 215
Honolulu, HI 96819